

## **REMARKS**

Applicants respectfully request reconsideration of this application as amended. Claims 8, 16-17 and 24 have been amended to overcome the Examiner's objections and to present the claims in better form for allowance and for possible consideration on appeal. Applicants respectfully request the Examiner to accept the proposed amendments. Claims 25-28 have been cancelled without prejudice. No new claims have been added. Therefore, claims 1-24 are presented for examination.

### **Claim Objections**

Claims 1-28 stand objected due to various informalities.

Claims 1-28 have been amended to overcome the Examiner's objection.

### **35 U.S.C. § 112 Rejection**

Claims 25-28 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 25-28 have been cancelled without prejudice.

### **35 U.S.C. § 102 Rejection**

Claims 1-24 stand rejected under 35 U.S.C. §102(e), as being anticipated by Ogasawara, U.S. Patent No. 6,671,877 ("Ogasawara").

Claim 1 recites:

A method comprising:  
storing native code associated with a first method within a native code space;

determining whether the native code space exceeds a threshold in response to an invocation of a second method; and reclaiming the native code associated with the first method and compiling byte code into native code associated with the second method in response to the determination.

Applicants respectfully disagree with the Examiner's characterization of the references. Applicants maintain the previous argument that Ogasawara discloses calculating an activity degree of a method and using it to decide an activity degree of each method and based on such an activity degree methods are discarded, however Ogasawara does not teach or reasonably suggest determining whether the native code space exceeds a threshold in response to an invocation of a second method and reclaiming the native code. Instead, Ogasawara discloses calculating an activity degree of a method in order to determine when the method should be discarded.

For example, as previously indicated, Ogasawara discloses "a method is compiled by a JIT compiler if it is determined that it is executed more than a certain level in terms of *execution frequency or execution time*. Once generated, JITed codes are managed in memory. The time when a JAVA system assures that they can be safely discarded is when *the JAVA system discards a class by garbage collection*" (col. 1, lines 51-57). Ogasawara further discloses "if a memory request of a JIT compiler cannot be met in a certain thread, the thread temporarily stops all the threads other than itself and locates active methods. A method for *calculating an activity degree of a method* is used to decide *the activity degree of each method*. Thereafter, *based on such an activity degree*, some or all of JITed codes of a non-active *method are discarded*" (col 4., lines 8-14). The *activity degree of a method likely to be called early is raised according to how early it is called*. Thus, as to an *activity degree*, the earlier re-execution time of a method is, the larger its value becomes. (col. 3, lines 63-67). Ogasawara further discloses "a JIT

*compiler discards JITed code whose activity degree is lower, restarts thread execution, and continues compilation” (col. 6, lines 65-67).*

In contrast, claim 1, in pertinent part, recites determining whether the native code space exceeds a threshold in response to an invocation of a second method and reclaiming the native code associated with the first method and compiling byte code into native code associated with the second method in response to the determination.

Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependant claims be withdrawn.

With regard to independent claims 9 and 17, they contain limitations similar to those of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 9 and 17 and their dependent claims.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

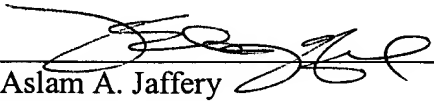
### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 1.12.05

  
Aslam A. Jaffery  
Reg. No. 51,841

12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1030  
(303) 740-1980